

§ 1.54

37 CFR Ch. I (7–1–12 Edition)

fee deficiency in order to avoid abandonment.

(4) This paragraph applies to continuation or divisional applications under paragraphs (b) or (d) of this section and to continuation-in-part applications under paragraph (b) of this section. See § 1.63(d) concerning the submission of a copy of the oath or declaration from the prior application for a continuation or divisional application under paragraph (b) of this section.

(5) If applicant does not pay the basic filing fee during the pendency of the application, the Office may dispose of the application.

(g) *Completion of application subsequent to filing—Provisional application.*

(1) If a provisional application which has been accorded a filing date pursuant to paragraph (c) of this section does not include the cover sheet required by § 1.51(c)(1) or the basic filing fee (§ 1.16(d)), and applicant has provided a correspondence address (§ 1.33(a)), applicant will be notified and given a period of time within which to pay the basic filing fee, file a cover sheet (§ 1.51(c)(1)), and pay the surcharge required by § 1.16(g) to avoid abandonment.

(2) If a provisional application which has been accorded a filing date pursuant to paragraph (c) of this section does not include the cover sheet required by § 1.51(c)(1) or the basic filing fee (§ 1.16(d)), and applicant has not provided a correspondence address (§ 1.33(a)), applicant has two months from the filing date of the application within which to pay the basic filing fee, file a cover sheet (§ 1.51(c)(1)), and pay the surcharge required by § 1.16(g) to avoid abandonment.

(3) If the application size fee required by § 1.16(s) (if any) is not paid on filing, the fee required by § 1.16(s) must be paid prior to the expiration of the time period set for reply by the Office in any notice of fee deficiency in order to avoid abandonment.

(4) If applicant does not pay the basic filing fee during the pendency of the application, the Office may dispose of the application.

(h) *Subsequent treatment of application—Nonprovisional (including continued prosecution) application.* An application for a patent filed under paragraphs

(b) or (d) of this section will not be placed on the files for examination until all its required parts, complying with the rules relating thereto, are received, except that certain minor informalities may be waived subject to subsequent correction whenever required.

(i) *Subsequent treatment of application—Provisional application.* A provisional application for a patent filed under paragraph (c) of this section will not be placed on the files for examination and will become abandoned no later than twelve months after its filing date pursuant to 35 U.S.C. 111(b)(1).

(j) *Filing date of international application.* The filing date of an international application designating the United States of America is treated as the filing date in the United States of America under PCT Article 11(3), except as provided in 35 U.S.C. 102(e).

[62 FR 53186, Oct. 10, 1997, as amended at 63 FR 5734, Feb. 4, 1998; 65 FR 14871, Mar. 20, 2000; 65 FR 50104, Aug. 16, 2000; 65 FR 54665, Sept. 8, 2000; 65 FR 78960, Dec. 18, 2000; 68 FR 14336, Mar. 25, 2003; 68 FR 32380, May 30, 2003; 69 FR 29878, May 26, 2004; 69 FR 56539, Sept. 21, 2004; 70 FR 3890, Jan. 27, 2005; 70 FR 30365, May 26, 2005; 72 FR 46836, Aug. 21, 2007; 74 FR 52688, Oct. 14, 2009]

§ 1.54 Parts of application to be filed together; filing receipt.

(a) It is desirable that all parts of the complete application be deposited in the Office together; otherwise, a letter must accompany each part, accurately and clearly connecting it with the other parts of the application. See § 1.53 (f) and (g) with regard to completion of an application.

(b) Applicant will be informed of the application number and filing date by a filing receipt, unless the application is an application filed under § 1.53(d).

[62 FR 53188, Oct. 10, 1997]

§ 1.55 Claim for foreign priority.

(a) An applicant in a nonprovisional application may claim the benefit of the filing date of one or more prior foreign applications under the conditions specified in 35 U.S.C. 119(a) through (d) and (f), 172, and 365(a) and (b).

(1)(i) In an original application filed under 35 U.S.C. 111(a), the claim for priority must be presented during the pendency of the application, and within